

REMARKS

Claims 1, 3-7, 11, and 12 were pending in this application.

Claims 1, 3-7, 11, and 12 have been rejected.

Claim 11 has been amended.

Claims 18-29 have been added.

Claims 1, 3-7, 11, 12, and 18-29 are now pending in this application.

Reconsideration and full allowance of Claims 1, 3-7, 11, 12, and 18-29 are respectfully requested.

I. OBJECTION TO OATH/DECLARATION

The Office Action objects to the oath or declaration as failing to comply with 37 C.F.R. § 1.61. The Applicant has included a new declaration with this AMENDMENT AND RESPONSE. The Applicant respectfully submits that the new declaration complies with 37 C.F.R. § 1.61. The Applicant respectfully requests withdrawal of the objection.

II. REJECTION UNDER 35 U.S.C. § 102

The Office Action rejects Claims 11 and 12 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,256,668 to Slivka et al. ("*Slivka*"). The Applicant respectfully traverses this rejection.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as

they are in the claims. (*MPEP* § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. (*MPEP* § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)).

Slivka recites a system for upgrading a web browser on a personal computer. (Col. 11, Line 59 – Col. 12, Line 5). The system uses a registry to identify information about the current browser used by the computer. (Col. 12, Lines 6-31). When a user uses the browser to access a web site, the system determines if an upgraded browser is available and offers any available upgraded browsers to the user. (Col. 12, Lines 32-51).

Slivka simply recites a mechanism for updating a web browser on a computer. *Slivka* lacks any mention of retrieving code used for graphically representing a feature of an electronic device on a remote control unit. As a result, *Slivka* fails to anticipate a “receiver” that receives “user interface code,” which is used for “graphically representing” a “controllable feature” of an electronic device on a “user interface” of a “control device” as recited in Claim 11.

For these reasons, *Slivka* fails to anticipate the Applicant’s invention as recited in Claim 11 (and its dependent claims). Accordingly, the Applicant respectfully requests withdrawal of the § 102 rejection and full allowance of Claims 11 and 12.

III. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejects Claims 1 and 3-7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,208,341 to van Ee et al. (“*van Ee*”) in view of U.S. Patent

No. 6,466,233 to Mitani ("*Mitani*").

Mitani does not qualify as prior art against this application. This application has a priority date of September 17, 1998. *Mitani* is a U.S. patent having a filing date of November 19, 1999. *Mitani* claims priority to two Japanese patent applications filed on November 20, 1998 and January 29, 1999.

This application has a priority date that precedes the filing date and the priority dates of *Mitani*. As a result, *Mitani* cannot be cited as prior art against this application.

For these reasons, the Office Action has not established a *prima facie* case of obviousness against Claims 1 and 3-7. Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection and full allowance of Claims 1 and 3-7.

IV. NEW CLAIMS

The Applicant has added new Claims 18-29. The Applicant respectfully submits that no new matter has been added. The Applicant respectfully requests entry and full allowance of Claims 18-29.

V. CONCLUSION

The Applicant respectfully asserts that all pending claims in the application are in condition for allowance and respectfully requests an early allowance of such claims.

SUMMARY

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fees) or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: Aug 5, 2004



William A. Munck
Registration No. 39,308

P.O. Drawer 800889
Dallas, Texas 75380
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: *wmunck@davismunck.com*